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LETTER DATED 4 JANUARY 1995 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit the attached report, which was addressed to me on 4 January 1995 by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia, concerning the operations of the International Conference's Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro). This report by the Co-Chairmen contains the certification referred to in paragraph 3 of Security Council resolution 943 (1994).

I should be grateful if you would bring this information to the attention of the members of the Security Council.

(Signed) Boutros BOUTROS-GHALI

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Annex

Operations of the International Conference on the Former Yugoslavia Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro)

Report of the Co-Chairmen of the Steering Committee

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 3 of Security Council resolution 943 (1994) of 23 September 1994. In that resolution, the Security Council requested that the Secretary-General submit every 30 days for its review a report from the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia on the border closure measures taken by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro).

2. It will be recalled that, on 4 August 1994, the following measures were ordered by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to come into effect the same day:

(a) "To break off political and economic relations with the Republika Srpska";

(b) "To prohibit the stay of the members of the leadership of the Republika Srpska (Parliament, Presidency and Government), in the territory of the Federal Republic of Yugoslavia";

(c) "As of today the border of the Federal Republic of Yugoslavia is closed for all transport towards the Republika Srpska, except food, clothing and medicine."

3. On 19 September, 3 October, 2 November and 5 December 1994, the Secretary-General transmitted to the Security Council reports from the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia on the state of implementation of the above-mentioned measures (S/1994/1074; S/1994/1124; S/1994/1246; S/1994/1372). The report dated 5 December 1994 contained the following certification from the Co-Chairmen:

> "In the light of the foregoing developments during the past 30 days, based on the Mission's on-site observation, on the advice of the Mission Coordinator, Mr. Bo Pellnås, and in the absence of any contrary information from the air, whether the airborne reconnaissance system of the North Atlantic Treaty Organization (NATO), or national technical means, the Co-Chairmen conclude that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) is continuing to meet its commitment to close the border between the Federal Republic of Yugoslavia (Serbia and Montenegro) and the areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces".

Developments in the past 30 days are dealt with below.

II. LEGISLATION/REGULATIONS ON THE BORDER CLOSURE

4. The legislation of the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) closing the border with the Bosnian Serbs continues in force. It should be noted that the legislation adopted by the Federal Republic of Yugoslavia (Serbia and Montenegro) only closed the border "for all transport towards the Republika Srpska, except food, clothing and medicine". This point has been made in each of the four preceding reports submitted by the Co-Chairmen to the Security Council (S/1994/1074, para. 5; S/1994/1124, para. 1; S/1994/1246, para. 2; S/1994/1372, para. 2). The terms of reference of the Mission were reproduced in the report of 19 September 1994 (S/1994/1074, para. 15), where it is expressly stated that "the responsibility of controlling the crossings remain with" the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), and that members of the Mission "will work alongside customs officers to look into any vehicles crossing; and ... have examined any items conveyed by individuals or vehicles across the border which they suspect might not be classified as purely humanitarian".

5. Keeping in mind the government legislation and the above-mentioned terms of reference, the Mission has concentrated on transport towards the "Republika Srpska", while paying attention to transit traffic. As was stated in the report of 3 October 1994 (S/1994/1124, para. 3), "as far as transit traffic to the Republic of Croatia is concerned, agreements have been made covering customs documentation and the sealing of load-carrying vehicles to reduce the obvious risk of a diversion of supplies to the Bosnian Serbs". This is further elaborated upon in the report of 2 November (S/1994/1246, para. 26), the relevant parts of which were as follows:

> "The procedures for traffic transiting the territory held by the Bosnian Serbs into the territory held by Serbs in Croatia have now been firmly established. Transports are divided into two categories, one consisting of humanitarian aid ... and the second being fuel .... The second category, fuel, is transported on 52 specially designated trucks, all provided with tachometers. Normally, convoys of some 20 trucks, escorted by police, transit into Croatia. The tachometers are sealed by the Mission when trucks leave Belgrade two or three times a week, and are removed by the Mission when the trucks return to the starting-point. The first sets of print-outs from the tachometers were sent to the United Kingdom on 1 November for analysis."

Analysis has shown that all the vehicles concerned kept to their authorized route. Nevertheless, the only check against them offloading oil at rest points was the accompanying police.

6. Some comments have been made about the relevance of Security Council resolution 820 (1993), and specifically paragraph 12 thereof, to the activities of the Mission. On this point, the Co-Chairmen have based themselves on the following interpretation provided by their legal adviser:

> "Paragraph 12 of resolution 820 (1993) empowers the Government of the Republic of Croatia to control authorizations for imports to, exports from and transshipments through the United Nations Protected Areas (UNPAs) in

the Republic of Croatia only for the purpose of ensuring that no goods prohibited in respect of the Federal Republic of Yugoslavia (Serbia and Montenegro) by that resolution or by resolutions 757 (1992) and 787 (1992) are imported to, exported from or transshipped through those areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces without proper authorization from the Government of Bosnia and Herzegovina."

7. Apart from the legal aspects of this matter, there is also a political aspect of vital importance. The closure by the Federal Republic of Yugoslavia (Serbia and Montenegro) of the border towards the Republika Srpska had the objective of persuading the Bosnian Serb leadership to accept the Contact Group plan for Bosnia and Herzegovina. That objective would surely have been defeated had the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) simultaneously pursued policies that could have thrown the Croatian Serbs into the arms of the Bosnian Serbs. It was precisely for these reasons that the Co-Chairman intensified efforts for the conclusion of an economic agreement between the Croatian Government and the local Serb authorities which could enable the UNPAs to be supplied with oil from within the Republic of Croatia. In section IV of the agreement signed on 2 December 1994 by the Croatian Government and the local Serb authorities (see S/1994/1375, appendix I), it is provided that:

"A joint commercial company will be established as soon as possible to sell and distribute oil and oil products at market prices in the UNPAs. The pipeline through UNPA North will be opened as soon as this company is established and the Joint Commission has declared that the pipeline is operational. The other segment of the pipeline will be opened when circumstances permit."

8. With the establishment of a joint commercial oil company, the issue of oil transiting into the UNPAs will no longer arise. The Co-Chairmen shuttled between Zagreb and Belgrade between 15 and 18 December in an attempt to reach agreement on the oil company and the opening of the Zagreb-Belgrade highway. On Sunday, 18 December, in Belgrade, it appeared to the Co-Chairmen that the opening of the highway was again to be delayed. They therefore instructed the Coordinator of the Mission to stop all oil-transiting into the UNPAs. On Wednesday, 21 December, the highway was opened and the Co-Chairmen instructed that electricity supply materials necessary for the implementation of that part of the agreement relating to electricity and water should transit to Knin. On 23 December there were further negotiations in Belgrade over a joint commercial oil company. On 29 December, when the highway through the western UNPA was certified by the United Nations Protection Force (UNPROFOR) to be fully opened, the Co-Chairmen instructed that, following the previously agreed procedures (see para. 5 above), oil should be supplied only to the western UNPA. Since this supply was clearly linked to implementation of the 2 December agreement, UNPROFOR agreed to check the oil-carrying vehicles on entering and leaving the western UNPA. The Co-Chairmen also informed the Croatian Government on 2 January 1995 that the generating poles in Zagreb should be sent to the Obrovac power station. The Co-Chairmen continued negotiating on the joint commercial oil company in Knin, Zagreb and Belgrade between 2 and 4 January and will keep the Security Council informed on progress (see appendix).

III. ORGANIZATION, FINANCING AND WORK OF THE MISSION

9. As at 3 January 1995, 178 international Mission personnel were on duty with the Mission. The Mission personnel to date have come from Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, the Netherlands, Norway, Portugal, the Russian Federation, Spain, Sweden, the United Kingdom of Great Britain and Norther Ireland and the United States of America.

IV. FREEDOM OF MOVEMENT OF THE MISSION

10. The Mission continues to enjoy full freedom of movement within the Federal Republic of Yugoslavia (Serbia and Montenegro). The security situation for the Mission members did not cause concern as December ended. The Sector Commander, Sector Belgrade, did, however, receive a threatening call in December. The Mission Coordinator gave all information to the authorities and they took swift and forceful action.

V. COOPERATION OF THE AUTHORITIES OF THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) WITH THE MISSION

11. In the assessment of the Mission Coordinator, the cooperation of the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) continues to be very satisfactory.

VI. INFORMATION RECEIVED FROM NATIONAL AND OTHER SOURCES

12. The operating principle of the Mission is to base itself on its own observations and on information that it has verified. The Mission Coordinator has maintained a standing request to Governments possessing the technical capacity to provide it with information relevant to its mandate. The Coordinator has received some such information on which follow-up measures have been taken.

13. The information received has basically been of two kinds: that which describe events in terms so general that make it totally impossible to find out where and when the event allegedly took place, and detailed information stating both place and time. Almost all detailed information up until now has proved to be inaccurate since the Mission has had teams on a 24-hour basis on the crossings where incidents are said to have occurred. In some cases, violations allegedly took place before the Mission had members on a 24-hour basis at the actual spots. When it has thus been possible to check information received, it has turned out that it is mostly unfounded and this raises serious questions about the accuracy of the general kind of information.

VII. PROBLEMS ENCOUNTERED AND REPRESENTATIONS MADE TO THE AUTHORITIES

14. The Mission now covers 20 major crossings 24 hours a day. Some minor crossings are being sealed during night time, in a way that makes it virtually impossible to use them. The Mission now encounters very few substantial problems along the border. Its members, in many cases, are very tired because of the long period of hard work under often harsh conditions, but continue to carry out their tasks with keenness and high morale. The coverage of the border is now such that there is a good picture of what is going on. The Mission Coordinator finds the situation most satisfactory and reported that his latest proposals to the Federal Republic of Yugoslavia (Serbia and Montenegro) authorities have been fully accepted and forceful action was being taken by them, including by the military. The Mission Coordinator personally inspected border crossings over the three-day period, from 18 to 20 December 1994.

15. In the last report it was stated that sufficient measures to meet the Mission's demands had not yet been taken by the military authorities. At a meeting on 8 December with the Deputy Chief of the General Staff, General Kovacevic, the Mission Coordinator, was informed about actions taken by the Yugoslav Army. General Kovacevic claimed that the border battalions had been reinforced; the rules for division of responsibilities between the police, customs and the military had been clarified; and the cooperation between them reinforced. The Mission teams along the border confirmed a noticeable increase in military presence along the border as well as improved cooperation with the Mission.

16. On Friday, 16 December, the Mission Coordinator had a meeting with General Babic, Commander of the Second Yugoslav Army, and Admiral Zec, Commander Herceg Novi Military District. During this meeting, General Babic presented a map that indicated that 20 minor border crossings inside military border areas were to be permanently blocked. General Babic stated that the work was already being carried out. It was agreed that the Mission could seal a barrier that was to be erected across the road in the so-called Nudo valley. Observations on the ground and talks between the Mission's Special Envoy in Podgorica and the Chef de Cabinet of President Bulatovic revealed that the barricades were not constructed as promised by General Babic. They could still be removed fairly quickly and were, as a matter of fact, not completely blocking the roads. At a further meeting with General Babic in Podgorica on 20 December, the Mission Coordinator raised this issue, and he once again assured the Mission Coordinator that all 20 crossings were to be thoroughly and permanently blocked. At 1900 hours on 21 December, the Mission Coordinator received reports that confirmed that all crossings in Sector Charlie had been effectively blocked. In fact the number of such physical barriers erected from where the border leaves the Drina river down to Herceg Novi is 32. The physical blocking of bypass roads and minor dirt-track roads has had a good effect. With only one exception, every reported effort by smugglers to bypass police or military checkpoints has failed. In the view of the Mission Coordinator, this was a major achievement since it literally made it impossible to take any cars or trucks across the Montenegrin border to Bosnia and Herzegovina except at seven checkpoints where Mission, customs and police personnel are present on a 24-hour

basis. Any substantial support from the Yugoslav Army to the Bosnian Serbs across the Montenegrin border was thus made impossible.

17. The reports from the Mission members, as well as the observations of the Mission Coordinator, verify an intensified presence of the Yugoslav Army also along the Drina. The Mission Coordinator has been informed that 30 percent of the border troops along the borders with Hungary and Romania have been transferred to the Bosnian border, together with their equipment, such as cars and radios. The Mission Coordinator also understands that 1,500 additional security personnel have been hired in order to shut down smuggling operations aggressively in towns and cities and prevent goods from reaching the border. During the week from 17 to 24 December, according to government sources, not less than 30 tons of fuel were confiscated. In the view of the Mission Coordinator, the control of the Drina is effective and as a result the amount of confiscated fuel is reported to be substantial.

18. On 18 December, Mission members detected a smuggling operation across the bridge at Mali Zvornik, with cars passing the border repeatedly, after being filled up at a garage some 100 metres away from the crossing. Neither the police nor the customs took action in spite of demands from the Mission members. The Mission Coordinator brought this to the attention of the authorities in Belgrade and demanded action. In response, the authorities have closed down this operation, made arrests and banned the several vehicles involved from making any further crossings into Bosnia and Herzegovina while the border sanctions are in effect. The Mission Coordinator's demand was given a positive response and sufficient action now seems to be taken.

19. On some occasions, however, military patrols from the Yugoslav Army had been neglecting to take action against smugglers they have come across. The Mission Coordinator has asked the authorities to correct this shortcoming immediately.

20. At a meeting with the Federal Republic of Yugoslavia (Serbia and Montenegro) Director of Customs, Mr. Kertes, on 13 December, he informed the Mission Coordinator that a special command with special teams under his direct authority had been organized. These teams were tasked to patrol the entire border, controlling not only the border itself, but also all police, customs and military personnel working along the border. Their first efforts were concentrated on Montenegro.

21. The Mission Coordinator reported that it was obvious that the customs authorities were trying hard to improve customs procedures. While there may still have been some shortcomings among individuals, the overall picture was satisfactory. The customs work had been especially good at Sremska Raca, Badovinci and in Belgrade. Nevertheless, during the week of 12 to 18 December, at a point some 18 kilometres south-east of Bratunac, a Mission foot patrol found four large pontoon boats in an area where the teams earlier had been advised not to go for "security reasons". There were no signs that the boats had been used. Two Bosnian Serb soldiers, however, were observed on the other side of the Drina. The Mission Coordinator demanded that the boats be taken away.

22. In the opinion of the Mission Coordinator, customs procedures otherwise have improved lately by stricter control of buses passing the border. Although buses have been a concern to the Mission, so far the controls carried out have revealed only one attempt to smuggle fuel in extra tanks. The situation in Montenegro continues to be satisfactory with Mission personnel present 24 hours a day at all major crossings and with good cooperation from the authorities. The Mission members working with the trains passing through Bosnia and Herzegovina are satisfied with the cooperation given to them by the railway authorities. The sealing of trains in Uscice and in Priboj continues without any problems.

23. On the night of 31 December 1994 to 1 January 1995, 16 fuel tankers and 7 other trucks were seized by the military in the Nudo valley, south of the Vilusi border crossing. This large-scale attempted smuggling operation seems to have been a calculated attempt to take advantage of an anticipated festive atmosphere at border crossings on New Year's Eve. It started by a bulldozer coming up to the 3-metre-high barrier from the Bosnian side. It was turned back by the military and did so without protests. After this the trucks started to come into the valley. The warrant officer in charge of the area called for reinforcements and positions were taken up by the military to prevent any efforts to free drivers and trucks. As at 3 January, the trucks had not yet been extricated from the valley, which would require drivers to reverse for 2 kilometres uphill on a very narrow mountain road, running on a shelf between the mountain side and a steep slope.

24. At the border crossing at Metaljka, trucks with coal, said to be humanitarian aid, started to cross the border on 16 December, despite protests from Mission personnel on the ground and also from the Sector headquarters. The Mission Coordinator made representations to the authorities and has reason to believe that this traffic has now been effectively stopped.

25. On the night of 26/27 December, 14 buses passed from Bosnia and Herzegovina into Serbia at Sremska Raca, carrying soldiers. In the darkness, it was not possible for the Mission personnel to see what sort of army badges - if any - were worn. Information received by the Mission Coordinator from reliable sources indicates that the soldiers were Croatian Serbs from UNPA Sector East returning after their tour of duty in UNPA Sector South. While transit into the Federal Republic of Yugoslavia (Serbia and Montenegro) does not come within the mandate of the Mission, the Mission Coordinator has written to the authorities in Belgrade informing them that any attempt to take soldiers back across the border would be a violation.

26. Lack of resources has been a major cause of concern. Insufficient four-wheel-drive cars, low standards of accommodation, long-lasting power cuts, difficult road communications between headquarters and teams on the ground and an inability to purchase generators for caravans has made life very hard for many members of the Mission. If the Security Council decides to continue with the Mission, then the Co-Chairmen will have to make expenditures for improving facilities. They wish to put on record their thanks for the dedication and unstinting efforts put in by all members of the Mission and in particular its Coordinator, Bo Pellnäs, who has asked to retire and will be replaced by Mr. Tauno Juhani Nieminen of Finland on 15 January 1995.

27. With the new barriers in place in Montenegro and the increased surveillance and enforcement along the Drina, the Mission Coordinator believes that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) are meeting their commitment to close the border effectively. While some small-scale smuggling may be possible, the above measures have made it highly unlikely that any cars or trucks could cross the border, except at those places where the Mission maintains a 24-hour presence. It may still be possible for the local population to take small boats across the Drina at night, although the risk of being detected has increased substantially. The possibilities of bringing fuel or other goods down to the river most probably have anyhow ceased to exist. The authorities have made major efforts to meet our demands and the Mission Coordinator now finds the situation most satisfactory. The Mission Coordinator has emphasized that no information or reports about fuel passing the border in Montenegro have been received during the last five weeks.

28. The roads in part of the Mission area are now becoming increasingly dangerous. At places it will from time to time not be possible to pass through. Hard surface ice on the asphalt on steep slopes where the road turns sharply without fences has, unfortunately, caused accidents involving Mission personnel already, but with minor injuries only. The Mission Coordinator has authorized Sector leaders to stop teams going to some border crossings when they judge weather conditions to be too dangerous. The Mission Coordinator reported on 31 December:

> "I am very satisfied with the efforts undertaken by the Federal Republic of Yugoslavia (Serbia and Montenegro) authorities during the last month. The most significant of those being the physical barriers on bypasses and small dirt track roads between the Drina and the Adriatic at 32 places. Those barriers, together with the already fallen snow, will make it very difficult to pass the border with any kind of vehicle, except on the official border crossings where the International Conference on the Former Yugoslavia has a 24-hour presence.
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> "The reinforced surveillance of the Drina by the military border battalions is also efficient. The constant patrolling of the border by special combined teams (Federal Republic of Yugoslavia (Serbia and Montenegro) customs, police, military) has also improved the work of the 'normal' border teams at the official crossings. It is therefore my conclusion that the Federal Republic of Yugoslavia (Serbia and Montenegro) authorities are meeting their commitment to close the border effectively."

VIII. CERTIFICATION

29. In the light of the foregoing developments during the past 30 days, based on the Mission's on-site observation, on the advice of the Mission Coordinator, Mr. Bo Pellnås, and in the absence of any contrary information from the air, whether the airborne reconnaissance system of NATO or national technical means, the Co-Chairmen conclude that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) is continuing to meet its commitment to close the border between the Federal Republic of Yugoslavia (Serbia and Montenegro)

and the areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces.

Appendix

Timetable for the implementation of the economic agreement of 2 December 1994

The Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia have agreed with Mr. Sarinic and Mr. Mikelic on the following implementation timetable for the agreement signed on 2 December 1994.

1. The Zagreb-Lipovac highway, which opened for daytime travel on 21 December 1994 will, as from Friday, 6 January 1995, 6.a.m., be permanently opened on a 24-hour basis.

2. From Thursday, 5 January 1995, the generator poles shall be tested at the Koncar factory in Zagreb in the presence of international experts to verify that they are in working order, and will be transported by road to the Obrovac power plant on Monday, 9 January.

3. Repair work on all damaged electricity and water facilities will proceed as quickly as possible according to a timetable to be agreed and monitored by the Joint Commission, the first phase of which should be operational by 24 February 1995.

4. Legal and commercial experts will conduct further negotiations on the statutes for a joint commercial oil company with a view to reaching early agreement.

5. UNPROFOR experts accompanied by two experts from Croatian Railways and two experts from the local authorities will immediately inspect the Zagreb-Okucani-Brod-Mirkovci railway line and report by Tuesday, 10 January 1995, on the schedule for the urgent repair of the line. The repair work will be conducted under UNPROFOR supervision and will draw on equipment and expertise that will be made available at no charge from Croatian Railways and the local authorities.

6. The same technical procedure as above will be followed with a view to drawing up a schedule for the opening of Zagreb-Knin-Split railway and the report will be made available as soon as possible.

7. The oil pipeline through UNPA Sector North will be inspected by UNPROFOR experts as soon as weather conditions permit, the problem being that demining is hazardous when snow is on the ground.

8. On 5 January 1995, the Joint Commission will meet in Split, chaired by Ambassador Eide and the United Nations Head of Civil Affairs, Mr. Moussali, on behalf of the Co-Chairmen of the Steering Committee. This meeting will deal with all aspects of implementation of the agreement signed on 2 December 1994.

9. On Wednesday, 11 January 1995, the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia will meet at the

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United Nations headquarters at Pleso Camp with Mr. Sarinic and Mr. Mikelic to continue negotiations.